

REMARKS

Claims 27-63 are pending.

§ 103(a)

Claims 28-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 02/06199 (as evidenced by USPN 6,867,328 to Borgmeier). Applicants respectfully traverse this rejection.

The Examiner admits that Borgmeier fails to teach the specific propane/molecular oxygen ratio in the claims. Moreover, applicants assert that one skilled in the art reviewing Borgmeier would not arrive at the presently claimed invention. There is simply no reason, based on the teachings of Borgmeier, one skilled in the art would arrive at the presented claimed method wherein the molar ratio of propane to molecular oxygen in the initial gaseous mixture is greater than or equal to 0.5. The present inventors have unexpected discovered that a change to the presently claimed method has a significant impact on the result of the process with respect to the selectivity of acrylic acid and the conversion of propane.

One skilled in the art reviewing Borgmeier is left to simply pick and choose from a vast array of choices. Accordingly, one skilled in the art would rely on the examples of Borgmeier for guidance.

The examples of Borgmeier are all performed with a ratio of propane to molecular oxygen of 0.3. Thus, the propane is very diluted when compared to the ratio of the presently claimed invention. As a consequence, the conversion of propane as well as the selectivity of acrylic acid is low at a temperature of 340°C.

The catalyst of Sa in Borgmeier is the catalyst that is the closest to the catalysts of the presently claimed invention. Accordingly, a comparison of the results of the catalyst Sa of Borgmeier and Example 5 of the presently claimed invention are shown below (the results of the presently claimed invention can be found in tables 2 and 3):

	Conversion of propane	Acrylic acid selectivity
Example 5 at 320°C	16.2%	59.5
Example 5 at 360°C	33.4%	62.4
Borgmeier Sa at 340°C	12%	40

Accordingly, the presently claimed invention showed an increased conversion of propane of 35% (320°C) and 178.3% (360°C) and an increased acrylic acid selectivity of 49% (320°C) and 56% (360°C).

It is clear that the presently claimed invention shows an unexpected result and that such a result was not evident to one skilled in the art.

Moreover, the presently claimed invention must be considered as a whole. Considering the presently claimed invention as a whole, the Examiner must take into consideration that one skilled in the art would have to choose, for example, the presently claimed catalyst and ratio of propane/molecular oxygen. Taking into consideration the presently claimed invention as a whole, a fair review of Borgmeier by one skilled in the art would not lead them to the presently claimed invention. One skilled in the art is reliably lead by the examples of Borgmeier away from the presently claimed invention.

Accordingly, applicants respectfully request that the rejection of claims 28-45 as being unpatentable, be withdrawn.

Claims 46-63 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 02/06199 (as evidenced by USPN 6,867,328 to Borgmeier) in view of FR 2833005 (as evidenced by counterpart Dubois II (USP App Pub No 2005/0054880)). Applicants respectfully traverse this rejection.

The Examiner recognizes that Borgmeier fails to explicitly teach the required cocatalyst. The Examiner relies on Dubois II to allegedly remedy this teachings.

The present application claims priority to French priority application No. FR 0211197. A verified translation of FR 0211197 has been filed herewith. FR 0211197 was filed on September 10, 2002. Accordingly, applicants are entitled to rely on the priority date of September 10, 2002.

Accordingly, FR 2833005 (as evidenced by counterpart Dubois II (USP App Pub No 2005/0054880)) published on June 6, 2003, and is not prior art to the present application. FR 2833005 cannot be used in a rejection under 35 U.S.C. § 103(a) against the currently pending claims.

Accordingly, applicants respectfully request that the rejection of claims 46-63 as being unpatentable, be withdrawn.

Conclusion

Favorable examination and further action in the form of a Notice of Allowance is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,
BUCHANAN INGERSOLL & ROONEY PC

Date: June 20, 2007

By: TD Boone
Travis D. Boone
Registration No. 52,635

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620